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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,447	09/04/2003	Timothy L. Guerrettaz	GUER.001	6445

7590 05/31/2005

Steven L. Christian
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EXAMINER	
DONNELLY, JEROME W	

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/655,447	GUERRETTAZ, TIMOTHY L.	
	Examiner	Art Unit	
	Jerome W Donnelly	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-22 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME W. DONNELLY
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 11-21 have been renumbered claims 12-22.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 4, 5, 65, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petrone in view of Berry.

Petrone discloses the device of claims 1, 2 and 4-8 absent the feature of a lower section having bars upon which weight-training plates having bores may be stored.

(Elements 108 and 110 considered as arms)

Berry teaches a lower section having bars for storing weights having bores.

Given the above teachings the examiner notes that it would have been obvious to one of ordinary skill in the art to include bars on the device of Petrone for the purpose of aiding in stabilizing the exercise device of Petrone.

Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Berry.

Evans discloses the device of the above noted claims substantially as claimed absent the teaching of providing weight plate bars on said device.

Berry discloses a device comprising weight plate bars.

Given the teaching of Berry the examiner notes that it would have been obvious to one of ordinary skill in the art to provide similar bar members on the device of Evans for the purpose of storing weight plates and stabilizing the device by adding weight.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claim*** fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed ***. In that paper, applicant has stated ***, and this statement indicates that the invention is different from what is defined in the claim(s) because.

In claim 12 it is unclear as to the orientation of the plurality of arms.

Claims 1, 9, 11, 12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans.

Evans discloses a devices comprising: cross arms (144) which incline outwardly at displaced horizontal locations, said stand including racks (152) connected at the ends of the arms. As best understood Evans discloses the device of claim 12.

Claims 12, 13, 17, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Desjardins.

As broadly claimed elements 62 and 63 comprise a rack. Applicant has not claimed any specifics of a rack.

In regard to claim 13 note elements (88).

In regard to claim 12, rack 62 and 102 also include arms which incline outwardly (not labeled)

In regard to claim 21 note elements 88.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desjardins.

In regard to claim 14 the examiner notes that it would have been obvious to manufacture the device of Desjardins to received plate holding at least 25lbs.

The examiner considers the angle of the bars (88) of Desjardins as arbitrary and to manufacture them at a thirty-degree angle is obvious unless the applicant prove the criticality of a thirty-degree angle.

In regard to claim 16 note opposing bar members (88 and 108).

Claims 1, 2, 3, 12 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Petrone in view of Desjardins.

The examiner notes that it would have been obvious to include the horizontally extending weight plate supporting bars on the lower and of the vertical stand of Petrone in view of the plurality of bars (88) located at the lower end on the frame member of Desjardins.

Claims 10, 19 AND 22 ARE rejected under 35 U.S.C. 103(a) as being unpatentable over Petrone in view of Desjardins and further in view of Ho.

Petrone in view of Desjardins discloses the device of claims 10 and 19 substantially as claimed absent the device including a latch member.

Ho discloses a latch member for securing a dumbbell to the rack.

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to include a latch member on the device of Petrone in view of Desjardins for the purpose of locking the dumbbell to the device.

Claims 12, 13, 17 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Desjardins.

In regard to claim 11 Desjardins discloses inclined arms (not labeled) as a portion of stand (102), (62).

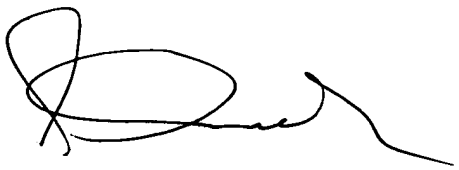
As broadly claimed the elements 62 and 63 comprise a rack capable of support weights. Applicant has not claimed any specifics of the rack.

In regard to claim 12 note elements (88).

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Donnelly/PJ

5/25/05



JEROME W. DONNELLY
PRIMARY EXAMINER